

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT of INDIANA
Indianapolis Division

FILED**10/01/2023**

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
Roger A.G. Sharpe, Clerk

JOEY KIMBROUGH,

Plaintiff,

v.

AMERICAN EXPRESS COMPANY AKA
AMERICAN EXPRESS NATIONAL
BANK;

and

TRANS UNION LLC (*settled and
dismissed*)

Defendants.

Case No. 1:22-cv-1993-TWP-MJDHonorable Tanya Walton Pratt
Magistrate Judge Mark J. Dinsmore

NOTICE OF INTENT TO APPEAL

COMES NOW Plaintiff Joey Kimbrough, and hereby submits this Notice of Intent to Appeal to the Seventh Circuit Court:

Introduction: The Plaintiff, Joey Kimbrough, formally notifies the Court and all parties involved of the intent to appeal the Court's Order dated 9/8/2023, which GRANTED the Defendant's Motion to Compel Arbitration.

Basis for Appeal: The Plaintiff believes that the Order issued by the Court on 9/8/2023 contains legal and procedural errors that warrant review and redress by the Seventh Circuit Court of Appeals. Specifically, these errors encompass the concerns and arguments presented in the

"Plaintiff's Objection to Court's Ruling GRANTING Defendant's Motion to Compel dated 9/8/2023" and the "Motion for Reconsideration" based on said Objection.

Grounds for Appeal: The Plaintiff contends that the Order:

- Overlooked or disregarded key issues, especially the Defendant's inconsistent behavior regarding the right to arbitrate, as evidenced by the initiation of litigation by AMEX in State Court (*American Express National Bank v Joey Kimbrough* 34D04-2112-CC-003201).
- Failed to adequately weigh the veracity, relevance, and weight of the Declaration of Keith Herr, upon which the Defendant heavily relied.
- Did not consider the Plaintiff's arguments regarding the absence of a mutual agreement to arbitrate, as supported by relevant Seventh Circuit case law, notably *Tinder v. Pinkerton Security*, 305 F.3d 728 (7th Cir. 2002).

Conclusion: The Plaintiff remains committed to seeking a just resolution and believes that an appeal to the Seventh Circuit Court of Appeals is both necessary and appropriate given the circumstances. This notice serves as the formal declaration of the Plaintiff's intent to challenge the Court's decision and to pursue all available legal remedies in the appellate court.

Respectfully Submitted,

/s/ Joey Kimbrough
Joey Kimbrough, Plaintiff, Pro Se
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Certificate of Service

I hereby certify that on September 29th, 2023, I electronically filed the foregoing with the Clerk of the Court by email with attachments as is required by the Court. Service was made on counsel by email:

Distribution:

All ECF-registered counsel of record via email

Respectfully Submitted,

/s/ Joey Kimbrough